



# राजपत्र, हिमाचल प्रदेश

## (असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

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शिमला, बुधवार, 26 मार्च, 1975/5 चैत्र, 1897 (शक्)

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**GOVERNMENT OF HIMACHAL PRADESH**

**VIDHAN SABHA SECRETARIAT**

**NOTIFICATIONS**

*Simla-4, the 21st March, 1975*

No. 1-29/75-VS.—In pursuance to rule 135 of the Rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly, 1973, the Himachal Pradesh Fisheries Bill, 1975

(Bill No. 11 of 1975) having been introduced in the Legislative Assembly on the 21st March, 1975 is hereby published in the Government Gazette.

S. S. KANWAR,  
*Secretary.*

Bill No. 11 of 1975.

# THE HIMACHAL PRADESH FISHERIES BILL, 1975

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

## BILL

*to provide for certain matters relating to fisheries in Himachal Pradesh.*

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-sixth Year of the Republic of India as follows:—

1. (i) This Act may be called the Himachal Pradesh Fisheries Act, 1975.

Short title,  
extent and  
commence-  
ment.

(ii) It extends to the whole of Himachal Pradesh.

(iii) It shall come into force at once.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

- (a) 'fish' includes shell fish and fish in all stages of its life history including aquatic plants of fisheries;
- (b) 'fishing craft' means any boat, whether manually operated or powered, used for fishing or transport of fish;
- (c) 'fishing gear' means any net, line, rod and line, fishing tackle and other appliances used for catching fish;
- (d) 'fishing offence' means an offence punishable under this Act or under any rule made thereunder;
- (e) 'fishery officer' means any person whom the Himachal Pradesh Government or any other officer empowered by the Himachal Pradesh Government in this behalf, may, from time to time, appoint by name, or as holding an office, to carry out all or any of the purposes of this Act or to do anything required by this Act or any rule made thereunder:

Provided that no police officer below the rank of Sub-Inspector shall be so empowered;

- (f) 'fixed engine' means any net, cage, trap or other contrivance for taking fish, fixed in the soil or made stationary in any other way;

- (g) 'private waters' means waters, which are the exclusive property of any person, or in which any person has for the time being an exclusive right of fishery, whether as owner, lessee or in any other capacity and includes tanks, ponds, artificial lakes etc., excavated at the expense of the owner which have no communication in the rainy season with natural waters such as rivers, streams, canals and jhils;

*Explanation:—*Water shall not cease to be private water within the meaning of this definition by reason only that other persons may have by custom a right of fishery therein;

- (h) 'State Government' means the Government of Himachal Pradesh;
- (i) 'religious water' means waters belonging to a religious body or institution and which have never been fished before on account of any restrictions on religious grounds;
- (j) 'religious body' means the trustees or any other persons who are in charge of a religious institution or in whom the ownership of the religious institution vest for the time being; and
- (k) 'religious institution' means a temple, a mosque, or a church, any other shrine dedicated to any God or Goddess, and such other institutions as the State Government may by notification in the Official Gazette declare in that behalf.

Power to make rules for prohibition and licensing of fishing in selected waters.

3. (1) The State Government may make rules for the purposes mentioned hereinafter in this section and shall under such rules declare the waters, not being private waters, to which all or any of them shall apply.

(2) The State Government may, by notification in the Official Gazette, apply such rules or any of them to any private waters with the consent in writing of the owner thereof and of all persons having for the time being any exclusive right of fishery therein, or, if the State Government is satisfied that the consent is un-reasonably withheld without such consent:

Provided that no rules under this section shall apply to any religious waters.

(3) Such rules may—

(a) prohibit or regulate all or any of the following matters,—

- (i) the erection and use of fixed engines;
- (ii) the construction, temporary or permanent, of weirs, dams and bunds; and killing of fish by diversion of natural waters; and
- (iii) the dimension and kinds of fishing gears to be used and the mode of using them;

(b) prohibit fishing except under license and regulate the granting of such licenses, the fees payable therefor and the conditions to be inserted therein;



- (c) prohibit the destruction or attempt to destroy fish by gun spear, bow and arrow or like instrument or pollution of waters by trade effluents;
- (d) prescribe seasons in which the killing or catching or sale of any fish of any prescribed species shall be prohibited;
- (e) prescribe a minimum size or weight below which no fish or any prescribed species shall be caught, killed or sold;
- (f) prohibit fishing in any specified water for specified period;
- (g) regulate the export of fish outside any area or areas and price at which fish may be brought or sold in any specified markets of all or any specified species;
- (h) require the owner, mortgagee with possession or lessee of any tank or jhil for the stocking of such tanks or jhils with any class or classes of fish;
- (i) prescribe the formation of associations or societies and the collection of funds for the uplift of fishermen and promotion of fishing industry;
- (j) regulate the marketing of fish and also purchase and use of fish for preservation or for the manufacture of any fish products;
- (k) regulate the possession of fishing craft and gear within such specified limits as may appear to be necessary; and
- (l) regulate the transport of all fish or of certain species of fish or fish products within specified limits as may appear to be necessary. Such rules may, among other matters,—
  - (a) prescribe the routes by which alone fish or fish products may be imported into and exported from the State of Himachal Pradesh,
  - (b) prohibit the import, export or transport within specified limits of fish without a pass from a fisheries officer or a person duly authorised to issue the same or otherwise than in accordance with the conditions of each pass,
  - (c) prescribe the form of such passes and provide for their issue, production and return, and
  - (d) provide for the examination of fish in transit within specified limits.

(4) In making any rule under this section the State Government may provide for—

- (a) seizure, removal and forfeiture of any apparatus erected or used for fishing in contravention of the rules,
- (b) forfeiture of any fish taken by means of any such apparatus and
- (c) confiscation of any consignment of fish held or transported in contravention of the rules,

(5) The power to make rules under this section shall be subject to the condition of the rules being made after previous publication.

(6) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the sessions immediately following, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to prohibit sale of fish.

4. The State Government may, by notification in the Official Gazette, prohibit in such area or areas as may be specified in that behalf the offering or exposing for sale or barter of any fish killed in contravention of any rule made under sub-section (3) of section 3 of this Act.

Penalties

5. The breach of any rule made under section 3 or of any prohibition notified under section 4 shall be punishable,—

(1) on first conviction with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both; and

(2) on every subsequent conviction with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Punishment for destruction of fish by explosives.

6. (1) If any person uses any dynamite or other explosive substances in any water with intent thereby to catch or destroy any fish, that may be therein, he shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees, or with both.

(2) Whoever, having already been convicted of an offence under sub-section (1) is again convicted thereunder, shall, on every subsequent conviction, be punishable with imprisonment for a term which

may extend to three years and with fine which may extend to two thousand rupees.

2 of 1974 (3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the offence under this section shall be cognizable.

7. If any person puts any poison, lime or noxious material into any water with intent thereby to catch or destroy any fish, he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

Punishment for destruction of fish by poisoning water.

8. (1) Any fisheries officer, police officer not below the rank of the Sub-Inspector, or any other person specially empowered by the State Government in this behalf, may arrest without warrant any person committing or attempting to commit, in his view a fishing offence,—

Arrest without warrant for offence under this Act.

(a) if the name and address of the person are not known to him, and

(b) if the person declines to give his name and address, or if there is reason to doubt the accuracy of the name and address, if given.

(2) A person arrested under this section may be detained until his name and address have been correctly ascertained;

Provided that no person so arrested shall be detained longer than it may be necessary for bringing him before a Magistrate, except under the order of a Magistrate for his detention.

(3) Every fishery officer shall have the same powers of search and investigation relating to a fishing offence as a police officer of the rank of the Sub-Inspector has under the Code of Criminal Procedure, 1973.

2 of 1974

9. No court shall take cognizance of any offence under this Act, except on the complaint of a fishery officer or of a police officer not below the rank of the Sub-Inspector or of any other person or class of persons authorised by the State Government in this behalf.

Cognizance of offences.

10. (1) The State Government may, by notification in the Official Gazette, empower a fishery officer by name or by virtue of office,—

Power to compound certain offences.

(a) to accept from any person concerning whom evidence exists, which if un rebutted, would prove that he has committed any fishing offence as described in the first column of the schedule, a sum of money by way of compensation for the offence with regard to which such evidence exists and on the payment of such sum to such officer, such person, if in custody, shall be released and no further proceedings shall be taken against him;

(b) to release any property that has been seized as liable to confiscation without further payment or on payment of the value thereof as estimated by such officer and on the payment of such value such property shall be released and no further proceedings shall be taken in respect thereof.

(2) A sum of money accepted as compensation under clause (a) of sub-section (1) shall in no case exceed the amount acceptable as compensation in the second column of the schedule for the particular offence described in the first column thereof.

Public servants indemnified for acts done under this Act.

11. (1) All persons empowered to exercise powers and perform duties under this Act or rules made thereunder shall be deemed to be public servants within the meaning of section 21 of Indian Penal Code, 1860.

45 of 1860

(2) No suit or other legal proceedings shall lie in respect of the exercise of any powers or discretion conferred by this Act, or against any public servant or person duly appointed or authorised under this Act, in respect of anything in good faith done or purporting to be done under the provisions thereof or the rules made thereunder.

Repeal and savings.

12. The Punjab Fisheries Act, 1914 as in force in the areas comprised in Himachal Pradesh immediately before the 1st November, 1966, and as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, is hereby repealed:

2 of 1914

31 of 1966

Provided that,—

(i) anything done or action taken or proceeding commenced or continued under the repealed Act shall be deemed to have been done, taken commenced or continued under the corresponding provisions of this Act;

(ii) any appointment, order, regulation or notification made, issued or given under the provisions of the repealed Act, shall in so far as it is not inconsistent with the provisions of this Act, be deemed to have been made, issued or given under the provisions of this Act, unless and until superseded by any appointment, order, regulation or notification made, issued or given under this Act.

THE SCHEDULE  
(See section 10)

MAXIMUM AMOUNT ACCEPTABLE AS COMPENSATION  
FOR CERTAIN FISHING OFFENCES UNDER SECTION 10

Description	Maximum amount acceptable as compensation
1	2
1. Fishing with a net having a smaller mesh than that prescribed under the rules made under the Act.	Rs. one hundred.
2. Fishing without a licence	.. Rs. one hundred.
3. Killing or catching or selling or attempt to kill, catch or sell fish of a size or weight less than the standard prescribed under this Act.	Rs. fifty.
4. Killing or catching or selling or attempt to kill, catch or sell any fish of a prohibited species during a close season.	Rs. fifty.
5. Fishing or attempting to fish with any gear or method other than that permitted under the rule.	Rs. fifty.
6. Using at any one time more than two of either or any of the gears permitted under the rules.	Rs. fifty.
7. License holders employing or engaging non-licensees to help them with their nets, while fishing.	Rs. fifty.
8. Fishing or attempting to fish in prohibited waters	Rs. fifty.
9. Offering or exposing for sale or barter any fish, the sale of which is prohibited in any specified area by a notification issued under section 4 of the Act.	Rs. fifty.
10. Exporting or attempting to export fish in contravention of any rule made under sub-section (3) of section 3 of the Act.	Rs. five hundred.
11. Selling or attempting to sell fish for price above the specified market value.	Rs. two hundred.
12. Possessing fishing craft and tackle unauthorisingly in contravention of clause (k) of sub-section (3) of section 3 of the Act.	Rs. two hundred.
13. Transporting or attempting to transport fish or fish products within specified limits in contravention of clause (l) of sub-section (3) of section 3 of the Act.	Rs. two hundred.

## STATEMENT OF OBJECTS AND REASONS

At present the Punjab Fisheries Act, 1914, is in force with different amendments and provisions of law in the two different areas of the Himachal Pradesh, viz., the areas transferred to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 and the areas comprised in Himachal Pradesh immediately before the 1st November, 1966. With a view to bringing about uniformity in the matter of such law, it has been considered necessary to repeal the aforesaid Punjab Act and to enact a unified law for the whole of Himachal Pradesh. The Bill *inter alia* provides for export, transportation, preservation and processing the object of organising fish marketing in the State. The formation of association and co-operative societies of fishermen, is likely to eliminate the middle man engaged in fish trading, who generally derive profit at the cost of fishermen. In order to save the waters of the Pradesh from the menace of noxious and undesirable fish and weeds, and the use of wanton and destructive method of fishing such as dynamiting and poisoning of waters etc., it is necessary to provide for deterrent punishments for the contravention of the provisions of the law.

This Bill seeks to achieve the aforesaid objects.

SIMLA:  
The 21st March, 1975.

Y. S. PARMAR,  
Chief Minister.

## FINANCIAL MEMORANDUM

Since this Bill is intended mainly to unify the existing laws in force in the two different areas of Himachal Pradesh, no financial implications are involved.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3(1) provides for making rules and for declaring the water to which such rules or any of them shall apply. Clause 3(2) provides for applying such rules or any of them to private waters. Sub-clauses (3), (4) and (5) of clause 3 enumerate the matters for which rules can be made, subject to the condition of previous publication. Clause 4 empowers the State to prohibit sale of fish. Under sub-clause (6) of clause 3 of the Bill all rules made are to be laid before the Legislative Assembly. This delegation is normal in character.

Simla-4, the 21st March, 1975

No. 1-32/75-VS.—In pursuance to rule 135 of the Rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly, 1973, the Himachal Pradesh Security of State Bill, 1975 (Bill No. 13 of 1975) having been introduced in the Legislative Assembly on the 21st March, 1975 is hereby published in the Government Gazette.

S. S. KANWAR,  
Secretary.

Bill No. 13 of 1975.

# THE HIMACHAL PRADESH SECURITY OF STATE BILL, 1975

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

## BILL

*to provide for special measures to prevent activities prejudicial to the security of the State and for maintenance of public order.*

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-sixth Year of Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Security of State Act, 1975.

Short title,  
extent and  
commence-  
ment.

(2) It extends to the whole of Himachal Pradesh.

(3) It shall come into force at once.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

- (i) "Government" means the Government of Himachal Pradesh;
- (ii) "notification" means notification published in the Official Gazette;
- (iii) "Official Gazette" means the Rajpatra, Himachal Pradesh;
- (iv) "public authority" means any officer appointed by the Government to act as such;
- (v) "public servant" means a public servant as defined in section 21 of the Indian Penal Code, 1860;
- (vi) "State" means the State of Himachal Pradesh;
- (vii) "prohibited place" means a prohibited place as defined in clause (8) of section 2 of the Official Secrets Act, 1923;
- (viii) "protected place" means a place declared under section 11 to be a protected place;
- (ix) "protected area" means an area declared under section 12 to be a protected area;
- (x) "union" means the Union of India.

3. (1) No person shall do any act with intent to impede the working of, or to cause damage to,—

Sabotage.

(a) any building, vehicle, vessel, machinery, apparatus or other property used or intended to be used for the purposes of Government or any local authority;

(b) any railway, road, canal, bridge, culvert, causeway, aerodrome, telegraph, telegraph line or telegraph post;

(c) any rolling stock of a railway or any aircraft;

(d) any building or other property used in connection with any industry, business or establishment of the nature specified in the Schedule.

(2) The provisions of sub-section (1) shall apply in relation to any omission on the part of a person to do anything which he is under a duty, either to the Government or to any public authority or to any person, to do, as they apply to the doing of any act by a person.

45 of 1860

19 of 1923

(3) If any person approaches or is in the neighbourhood of any such building, place or property as is mentioned in sub-section (1) in circumstances which afford reasonable grounds for believing that he intends to contravene that sub-section, he shall be deemed to have attempted a contravention thereof.

(4) If any person contravenes or attempts to contravene any of the provisions of this section, he shall be punishable with imprisonment for a term which may extend to two years or with fine, or with both.

*Explanation.*—No person shall be deemed to have contravened or attempted to have contravened the provisions of this section if he commences, continues, acts in furtherance of, or omits to do anything in pursuance of, a strike which is not illegal under any law for the time being in force.

Quasi-Military organisation.

4. (1) No person shall take part in the organisation, control, management or training of, or be a member of, any body of persons organised or trained or equipped for the purpose of enabling them to be employed in usurping the function of the police or for the unauthorised use or display of force.

(2) If any person contravenes the provisions of sub-section (1) he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

Power to prohibit drilling.

5. The district magistrate, if satisfied that it is necessary so to do in the interest of the security of the State or for the maintenance of public order, may, by order in writing, prohibit in any area specified in the order, either absolutely or subject to exceptions contained in the order, the unauthorised practice of, or participation in any exercise, movement, evolution or drill which is either of a military nature or involves the use, or preparation for the organised use of weapons of offence.

Wearing or display of uniforms, flags, etc.

6. (1) No person shall have in his possession, or wear, carry or display, any uniform, flag, banner or emblem which has been declared by the Government through a notification published in the Official Gazette to signify association with any organisation declared unlawful by the Government.

(2) Any such uniform, flag, banner or emblem wherever found shall be forfeited to Government.

(3) If any person publicly wears, carries or displays any such uniform, flag, banner or emblem, he shall be punishable with imprisonment which may extend to one year, or with fine, or with both.

Power to prohibit meetings and processions.

7. The district magistrate, if satisfied that it is necessary so to do for the maintenance of public order may, by order in writing, from time to time, prohibit within such area and for such period not exceeding two months as may be specified in the order,—

- (a) the holding of any procession or demonstration in any public place;
- (b) the holding of any public meeting;
- (c) the carrying in public of anything capable of use as a weapon of offence.



8. (1) The Government or a district magistrate, if satisfied with respect to any particular person that, with a view to preventing him from acting in any manner prejudicial to the security of the State or the maintenance of public order, it is necessary so to do, may by order in writing, give one or more of the following directions viz. that such person,—

Power to restrict movements of persons.

(a) shall not enter, reside or remain in any area that may be specified in the order;

(b) shall reside or remain in any area that may be specified in the order;

(c) shall remove himself from and shall not return to any area that may be specified in the order;

(d) shall notify his movements or report himself in such manner and at such times and to such magistrate as may be specified in the order.

(2) An order made under sub-section (1) (hereinafter referred to as a restriction order) may require the person in respect of whom it is made to enter into a bond, with or without sureties, for the due performance of the restrictions or conditions specified in the order.

(3) No restriction order shall be operative for more than—

(a) one month, if made by a district magistrate; and

(b) one year, if made by the Government.

(4) The Government may at any time cancel or modify any restriction order made by a district magistrate.

(5) An order made under clause (a), clause (c) of sub-section (1) may, if made by the Government, specify as the area to which the order relates the whole of the State or any part thereof only and, if made by the district magistrate, specify as such area the whole or any part of the district only:

Provided that no such order made by the Government shall direct the exclusion or removal from the State of any person ordinarily resident in Himachal Pradesh and no such order made by the district magistrate shall direct the exclusion or removal from the district of any person ordinarily resident in the district.

(6) As soon as may be after a restriction order is made, the authority making the order shall communicate to the person against whom the order is made, so far as such communication can be made without disclosing facts likely to endanger public safety or the security of the State, the grounds on which the order has been made or such other particulars as are in its opinion adequate to enable him to make a representation to the Government against the order, and inform him of his right to make such representation and shall afford him the earliest opportunity of doing so.

(7) When the restriction order is made by a district magistrate he shall forthwith report to the Government that the order has been made, the grounds on which it has been made and such other particulars as, in his opinion, have a bearing on the case.

(8) On receipt of a representation from the person against whom a restriction order has been made, the Government shall, as soon as may be, place it before the Advisory Council constituted under sub-section (9) together with the grounds on which it has been made.

(9) The Government shall constitute an Advisory Council consisting of a Chairman and two other members all of whom shall be persons who are or have been or are qualified to be appointed as Judges of a High Court.

(10) The Advisory Council shall after considering the material placed before it and, if necessary after calling for such further information from the Government or from the person concerned, as it may deem necessary, submit its report to the Government within thirty days from the date on which a representation is placed before it.

(11) After considering the report of the Advisory Council, the Government may confirm, modify or cancel the restriction order.

(12) All particulars contained in any correspondence between the Government and the Advisory Council and the report made by the latter shall be confidential and, notwithstanding anything contained in any law for the time being in force, no court shall be entitled to require any public servant to produce any of the aforesaid documents before it.

Order for  
certain places  
and  
areas.

9. (1) Without prejudice to the provisions of any other law in force for the time being, Government, as respects to—

- (a) any prohibited place;
- (b) any place or area declared by it to be a protected place or protected area; or
- (c) any other place or area in relation to which it appears to it to be necessary to take special measures in the interests of the defence of India and civil defence, the public safety, the maintenance of public order, the efficient conduct of military operations, or the maintenance of supplies and services essential to the life of the community;

may make order for controlling or regulating the admission of persons to and the conduct of persons in, and in the vicinity of, such place or area.

(2) Without prejudice to the generality of the foregoing provisions, orders made under sub-section (1) in relation to any place or area Government may make provision,—

- (a) for restricting the admission of persons to such place or area and for removing therefrom any person who is therein in contravention of the orders or who has been convicted of—
  - (i) any contravention of the provisions of this Act, or
  - (ii) any offence against public order or decency;
- (b) for requiring the presence of any person or class of persons in such place or area to be notified to a prescribed authority and for requiring any person who has been convicted of any such offence as is mentioned in clause (a) of this sub-section to report his movement while in such place or area and to observe any other condition imposed upon him by a prescribed authority;
- (c) for requiring any person or class of persons in such place or area to carry such documentary evidence of identity as may be prescribed; and
- (d) for prohibiting any person or class of persons from being in possession or control of any prescribed article.

(3) An order made under this section in respect of a prohibited place, protected place or protected area may exempt such place or area from all or any of the provisions of this Act which are expressed to apply to or in relation to a prohibited place, protected place or protected area, as the case may be, or may direct that all or any of the said provisions shall apply subject to such modifications as may be specified in the order.

(4) If any person contravenes any order made under this section he shall be punishable with imprisonment for a term which may extend to three years or with fine, or with both.

10. (1) No person shall, without the permission of the Government, enter, or be on or in, or pass over, or loiter in the vicinity of, any prohibited place. Access to certain places.

(2) Where in pursuance of sub-section (1) any person is granted permission to enter, or to be on or in, or to pass over, a prohibited place, that person shall, while acting under such permission, comply with such orders for regulating his conduct as may be given by the State Government.

(3) Any police officer or any other person authorised in this behalf by the State Government, may search any person entering or seeking to enter, or being on or in, or leaving or passing over or seeking to pass over, a prohibited place and any vehicle, vessel, aircraft or article brought in by such person and may, for the purpose of the search, detain such person, vehicle, vessel, aircraft and article:

Provided that no female shall be searched in pursuance of this sub-section except by a female.

(4) If any person is in a prohibited place in contravention of this section then without prejudice to any other proceedings which may be taken against him, he may be removed therefrom by any police officer or by any other person authorised in this behalf by the Government.

(5) If any person is in a prohibited place in contravention of any of the provisions of this section, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

11. (1) If in respect of any place or class of places, the Government considers it necessary or expedient that special precautions should be taken to permit the entry of unauthorised person, the Government may by order declare that place, or as the case may be, every place of that class to be a protected place, and thereupon the provisions of the Official Secrets Act, 1923, shall have effect in relation to such place or places, as if reference therein to a prohibited place and the Government were construed as references to a protected place and the Government under this section. Protected places.

(2) No person shall, without the permission of the Government or of any other authority connected with the protected place duly authorised by the Government in this behalf, or of the district superintendents of police or the district magistrate, or of the executive magistrate 1st class having jurisdiction, enter, or be on or in, or pass over, any protected place, and no person shall loiter in the vicinity of any such place.

(3) Where in pursuance of sub-section (2) any person is granted permission to enter, or to be on or in, or to pass over, a protected place, that person shall while acting under such permission, comply with such orders for regulating his conduct as may be given by the authority which granted the permission.

(4) Any police officer, or any other person authorised in this behalf by the Government, may search any person entering, or seeking to enter, or being on or in, or leaving, a protected place and any vehicle, vessel, animal

or article brought in by such person, and may for the purpose of the search, detain such person, vehicle, vessel, animal or article:

Provided that no female shall be searched in pursuance of this subsection except by a female.

(5) If any person contravenes any provisions of this section then, without prejudice to any other proceedings which may be taken against him, he may be removed therefrom by any police officer or by any other person authorised in this behalf by the Government.

(6) If any person contravenes any of the provisions of this section, he shall on conviction, be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

Protected  
area.

12. (1) If the Government considers it necessary or expedient in the public interest or in the interest of the safety and security of any area to regulate the entry of persons into that area, the Government may, without prejudice to any other provisions of this Act, by order, declare the area to be a protected area; and thereupon, for so long as the order is in force, such area shall be protected area for the purpose of this Act.

(2) On and after such day as may be specified in, and subject to any exemptions for which provision may be made by order, made under subsection (1), no person who was not at the beginning of the said day resident in the area declared to be a protected area by the said order shall be therein except in accordance with the terms of a permit in writing granted to him by an authority or person specified in the said order.

(3) Any police officer, or any other person authorised in this behalf by the Government, may search any person entering or seeking to enter, or being on or in, or leaving, a protected area, and any vehicle, vessel, aircraft or article brought in by such person, and may, for the purpose of the search, detain such person, vehicle, vessel, aircraft, animal or article:

Provided that no female shall be searched in pursuance of this subsection except by a female.

(4) If any person is in or passes over a protected area in contravention of the provisions of this section, then without prejudice to any other proceedings which may be taken against him, he may be removed therefrom by or under the direction of any police officer or any member of the armed forces of the Union on duty or by any other person authorised in this behalf by the Government in the protected area.

(5) If any person is in a protected area in contravention of any of the provisions of this section, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

Forcing or  
evading a  
guard.

13. Any person who effects or attempts to effect entry into a prohibited place or a protected place or protected area—

- (a) by using or threatening to use criminal force to any person posted for the purpose of protecting or preventing or controlling access to, such places or area, or
- (b) after taking precautions to conceal his entry or attempted entry from any such person, shall, on conviction, be punished with

imprisonment for a term which may extend to five years, or with fine, or with both.

14. Whoever contravenes, disobeys or neglects to comply with any order made or direction given under sections 5, 7 and 8 of this Act, shall, on conviction be liable to be punished with imprisonment of either description which may extend to one year, or with fine, or with both.

Penalties for violations of sections 5, 7 and 8.

15. (1) Whoever, without lawful authority—

(a) has in his possession, or

(b) carries for delivery to another person otherwise than through the post,

Possession or conveyance of prescribed documents.

any document the importation of which has been prohibited under the Customs Act, 1962, or in respect of which an order of forfeiture has been made under any law for the time being in force, shall be punishable with imprisonment which may extend to one year, or with fine, or with both.

(2) Whoever intentionally permits his name or address to be used in order to facilitate transmission through the post or otherwise, to any person other than the person for whom it purports to be intended, of any documents of the nature described in sub-section (1) shall be punishable with imprisonment which may extend to one year, or with fine, or with both.

16. Whoever,—

(a) makes any speech, or

(b) by words, whether spoken or written, or by signs or by visible or audible representations or otherwise publishes any statement, rumour or report,

Dissemination of rumours etc.

shall, if such speech, statement, rumour or report undermines the security of the State, friendly relations with foreign States, public order, decency or morality or amounts to contempt of court, defamation or incitement to an offence prejudicial to the security of the State or the maintenance of public order or tends to overthrow the State, be punishable with imprisonment which may extend to three years, or with fine, or with both.

17. (1) The Government may, by notification in the Official Gazette declare the whole or any part of the State to be a dangerously disturbed area.

Imposition of collective fines in dangerously disturbed areas.

(2) The Government or the district magistrate, if satisfied that the inhabitants of any dangerously disturbed area,—

(a) are concerned in the commission of offences or other acts which are prejudicial to the security of the State or the maintenance of law and order,

(b) have been harbouring persons concerned in the commission of such offences or acts,

may impose a collective fine on the inhabitants of that area.

(3) An order made by the district magistrate under sub-section (2) shall be reported forthwith by him to the Government and the Government may thereupon amend, vary or rescind such order.

(4) The authority imposing the fine under sub-section (2) may exempt any person or class or section of such inhabitants from liability to pay any portion of such fine.

(5) The district magistrate, after such enquiry as he may deem necessary shall apportion the fine imposed under sub-section (2) among the inhabitants who are collectively liable to pay it and such apportionment shall be made according to the district magistrate's judgement of the respective means of such inhabitants.

(6) The portion of such fine payable by any person may be recovered from him as a fine or as arrears of land revenue.

Powers of search.

18. The power to issue search warrants conferred by section 94 of the Code of Criminal Procedure, 1973 shall be deemed to include the power to issue warrants for,—

2 of 1974

(a) the search of any place in which any magistrate mentioned in that section has reason to believe that any offence under this Act or any act prejudicial to the security of the State or the maintenance of public order has been, is being, or is about to be, committed, or that preparation for the commission of any such offence or act is being made; and

(b) the seizure in or on any place searched under clause (a) of anything which the officer executing the warrant has reason to believe is being used or is intended to be used for any purpose mentioned in that clause;

and the provisions of the Criminal Procedure Code, 1973 shall, so far as may be, apply to searches made under the authority of any warrant issued and to the disposal of any property seized under this section.

2 of 1974

Offences under the Act to be cognizable and non-bailable.

19. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 all offences punishable under this Act shall be cognizable and shall, if the offence is punishable with imprisonment for a term which may extend to a period exceeding one year, be non-bailable.

2 of 1974

Protection of action taken under this Act.

20. (1) No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under, or in pursuance of this Act.

(2) No suit or other legal proceedings shall lie against Government, or except with the sanction of the Government against any of the officers under its administrative control for any damage caused or likely to be caused by anything in good faith done or intended to be done under, or in pursuance of this Act.

Repeal and savings.

21. The Punjab Security of the State Act, 1953, as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 and the Punjab Security of the State Act, 1953 as extended to the areas comprised in Himachal Pradesh, immediately prior to 1st November, 1966, are hereby repealed, but notwithstanding such repeal any order made, notification or direction issued, appointment made or action taken in exercise of the powers conferred by or under either of the said Acts and in force immediately before the commencement of this Act, shall in so far as it is not inconsistent with the provisions of this Act continue in force and be deemed to have been made, issued, done or taken under the corresponding provisions of the Act as if this Act was in force on the day on which such thing was done or action was taken and all the provisions of this Act shall apply accordingly.

12 of 1953

31 of 1966

12 of 1953

## THE SCHEDULE

[See section 3 (1) (d)]

All undertakings relating to—

- (a) the maintenance and working of naval, military and air force works, railways, air transport including aerodromes, canals, inland water transport, road transport, telegraph, telephone, broadcasting and postal services, hospitals and services with safeguarding of the public health, mines, fire-brigades, printing presses;
- (b) the manufacture, storage, or distribution of stores or equipment required by Government for its departments or services;
- (c) any system of public conservancy or sanitation;
- (d) the upkeep of roads and bridges;
- (e) any industry, business or establishment engaged in the production or supply to the public of light, heat, power, water or motive fuel; or
- (f) any industry, business or establishment engaged in the production or supply to the public of any commodity essential to the life of the community.

## STATEMENT OF OBJECTS AND REASONS

The Punjab Security of the State Act, 1953 is in force in the territories added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, and whereas this Act stands extended to the areas comprised in Himachal Pradesh before 1st November, 1966, under Government of India notification No. 4/6/60/Jud. II. UTL. 10, dated 19th January, 1960. However, it is considered necessary that Himachal Pradesh should have its own enactment to provide for special measures to prevent activities prejudicial to the security of the State and for the maintenance of public order by repealing the Punjab Act. This Bill seeks to achieve the aforesaid object.

SIMLA:  
The 21st March, 1975.

Y. S. PARMAR,  
Chief Minister.

## FINANCIAL MEMORANDUM

The Bill is intended to be implemented through the existing agency of police as well as the District Magistrates and as such no financial implication is involved for the enforcement of the proposed Legislation.

## MEMORANDUM ON DELEGATED LEGISLATION

Nil

*Simla-4, the 21st March, 1975*

No. 1-34/75-VS.—In pursuance to rule 135 of the Rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly, 1973, the Himachal Pradesh Courts Bill, 1975 (Bill No. 14 of 1975) having been introduced in the Legislative Assembly on the 21st March, 1975 is hereby published in the Government Gazette.

S. S. KANWAR,  
Secretary.



# THE HIMACHAL PRADESH COURTS BILL, 1975

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

## A BILL

*to enact a law relating to Courts in Himachal Pradesh.*

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-sixth Year of the Republic of India as follows:—

### PART I

#### PRELIMINARY

1. (1) This Act may be called the Himachal Pradesh Courts Act, 1975.

Short title,  
extent and  
commence-  
ment.

(2) It shall extend to the whole of Himachal Pradesh.

(3) It shall come into force at once.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

(a) “civil district” or “district” means the local limits of the jurisdiction of a principal Civil Court of original jurisdiction ;

(b) “District Judge” shall include an Additional District Judge;

(c) “Government or State Government” means the Government of Himachal Pradesh;

(d) “High Court” means the High Court of Himachal Pradesh;

(e) “Official Gazette” means the Rajpatra, Himachal Pradesh; and

(f) “Small Cause” means a suit of the nature cognizable by a Court of Small Causes under the Provincial Small Cause Courts Act, 1887.

9 of 1887

### PART II

#### CHAPTER I

#### THE SUBORDINATE CIVIL COURTS

3. Besides the Courts of Small Causes established under the Provincial Small Cause Courts Act, 1887, and the Courts established under any other enactment for the time being in force, there shall be the following classes of Subordinate Civil Courts in Himachal Pradesh:—

Classes of  
Courts.

(1) the Court of the District Judge; and

(2) the Court of the Subordinate Judge.

4. (1) For the purpose of this Act, the State Government shall by notification in the Official Gazette, divide the Himachal Pradesh into civil districts and may alter the limits or the number of these districts and may determine the headquarters of each such district, for the purpose of locating the administrative offices of the District Judge.

Civil  
Districts.

9 of 1887

(2) The civil districts existing in the State at the commencement of this Act, shall be deemed to have been formed under this Act.

District Judges.

5. The State Government shall, after consultation with the High Court, appoint as many persons as it thinks necessary to be District Judges and the High Court shall post one such person to each district as District Judge of that district:

Provided that the same person may, if the High Court thinks fit, be appointed to be the District Judge of two or more districts.

Additional District Judge.

6. (1) When the business pending before the Court of any District Judge requires the aid of an Additional Judge or Judges for its speedy disposal, the State Government may, after consultation with the High Court, appoint such Additional District Judges as may be necessary.

(2) An Additional District Judge so appointed shall discharge any of the functions of a District Judge which the High Court or the District Judge may assign to him and in the discharge of his functions he shall exercise the same powers as the District Judge.

Assignment of functions of District Judge to Additional District Judge.

7. The High Court or the District Judge may assign to an Additional District Judge any of the functions of the District Judge including the functions of receiving and registering cases and appeals, which, but for such assignment of functions could be instituted in the Court of District Judge and in the discharge of those functions the Additional District Judge shall, notwithstanding anything contained in the Act, exercise the same powers as the District Judge.

Subordinate Judge.

8. The State Government may, from time to time, after consultation with the High Court, fix the number of Subordinate Judges to be appointed.

District Court to be Principal Civil Court of original jurisdiction.

9. The Court of the District Judge shall be deemed to be the District Court or Principal Civil Court of original jurisdiction in the district.

Original jurisdiction of Civil Courts.

10. Save as otherwise provided by any other law for the time being in force, the Court of the District Judge shall have jurisdiction in all original civil suits, the value of which does not exceed fifty thousand rupees.

Original limits of subordinate Judges.

11. Subject to the limit specified in section 10, the jurisdiction to be exercised in original civil suit as regards the value by any person appointed to be a Subordinate Judge shall be determined by the High Court either by including him in a class or otherwise as it thinks fit.

Local limits of jurisdiction.

12. (1) The local limits of the jurisdiction of a Subordinate Judge shall be such as the High Court may define.

(2) when the High Court posts a Subordinate Judge to a district, the local limits of the district shall, in the absence of any direction to the contrary, be deemed to be the local limits of his jurisdiction.

13. The High Court may, by notification in the Official Gazette, confer within such local limits as it thinks fit, upon any Subordinate Judge, the jurisdiction of a Judge of a Court of Small Causes under the Provincial Small Cause Court Act, 1887, for the trial of suits, cognizable by such Court, upto such value not exceeding two thousand rupees as it thinks fit, and may withdraw any jurisdiction so conferred.

Power to invest Subordinate Judge with Small Cause Court jurisdiction.

14. (1) The High Court may, by general or special order and subject to the provisions of any other law for the time being in force, authorise any Subordinate Judge to take cognizance of, and any District Judge to transfer to such a Subordinate Judge under his control, any proceedings or any class of proceedings, specified in such order under:—

Exercise by Subordinate Judges of jurisdiction of District Court in certain proceedings.

(a) the Indian Succession Act, 1925,

(b) the Guardians and Wards Act, 1890, and

(c) the Provincial Insolvency Act, 1920.

(2) The District Judge may, withdraw any such proceedings taken cognizance of by, or transferred to, a Subordinate Judge and may either himself dispose of them or transfer them to any other Court under his control competent to dispose of the same.

(3) Proceedings taken cognizance of by, or transferred to a Subordinate Judge, as the case may be, under this section shall be disposed of by him, subject to the rules applicable to like proceedings in the Court of the District Judge.

15. (1) The High Court may fix the place or places at which any Court under this Act is to be held.

Place of sitting of Court.

(2) The place or places so fixed may be beyond the local limits of the jurisdiction of the Court.

(3) Except as may be otherwise provided by any order under this section, a Court under this Act may be held at any place within the local limits of its jurisdiction.

16. Subject to the general superintendence and control of the High Court, the District Judge shall have control over all the Civil Courts under this Act within the local limits of his jurisdiction.

Control of Courts.

17. Notwithstanding anything contained in the Code of Civil Procedure, every District Judge may by written order direct that any civil business cognizable by his Court and the Courts under his control shall be distributed among such Courts in such manner as he thinks fit:

Power to distribute business.

Provided that no direction issued under this section shall empower any Court to exercise any powers or deal with any business beyond the limits of its jurisdiction.

18. (1) The ministerial officers of the District Court other than Superintendent of the Court shall be appointed by the District Judge. The Superintendent of the District Court shall be appointed by the High Court.

Ministerial officers of Courts.

(2) The ministerial officers of Civil Courts, under the control of the District Judge, shall be appointed by the District Judge.

(3) Every appointment under this section shall be subject to such rules as the High Court with the prior approval of the Government may make in this behalf.

(4) Any order passed by a District Judge under this section shall be liable to be reversed or modified by the High Court.

Delegation  
of District  
Judge's  
Powers.

19. A District Judge may, with the previous sanction of the High Court delegate to any Subordinate Judge in the district, the power conferred on him by section 18(2) of this Act to be exercised by the Subordinate Judge in any specified portion of the districts, subject to the control of the District Court.

## CHAPTER II

### APPELLATE AND REVISIONAL JURISDICTION IN CIVIL CASES

Appeals  
from District  
Judges or  
Additional  
District  
Judges.

20. (1) Save as otherwise provided by any enactment for the time being in force, an appeal from a decree or order of a District Judge or Additional District Judge exercising original jurisdiction shall lie to the High Court.

(2) An appeal shall not lie to the High Court from a decree or order of an Additional District Judge in any case, in which, if the decree or order had been made by the District Judge, an appeal would not lie to that Court.

Appeals  
from Sub-  
ordinate  
Judges.

21. (1) Save as aforesaid, an appeal from decree or order of a Subordinate Judge shall lie—

(a) to the District Judge where the value of the original suit in which the decree or order was made did not exceed ten thousand rupees; and

(b) to the High Court in any other case.

(2) Where the function of receiving appeals which lie to the District Judge under sub-section (1) has been assigned to an Additional District Judge, the appeals may be preferred to the Additional District Judge.

(3) The High Court may by notification direct that appeals lying to the District Court from all or any of the decrees or orders passed in an original suit by any Subordinate Judge shall be preferred to such other Subordinate Judge as may be mentioned in the notification and the appeals shall thereupon be preferred accordingly and the Court of such other Subordinate Judge shall be deemed to be a District Court for the purposes of all appeals so preferred.

Power to  
transfer to  
a Subordi-  
nate Judge  
appeals  
from other  
Subordinate  
Judges.

22. (1) A District Judge may transfer any appeal pending before him from the decrees or orders of Subordinate Judges to any other Subordinate Judge under his administrative control competent to dispose of the same.

(2) The District Judge may withdraw any appeal so transferred, and either hear and dispose of it himself or transfer it to a Court under his administrative control competent to dispose of the same.

(3) Appeals transferred under this section shall be disposed of subject to the rules applicable to like appeals when disposed of by the District Judge.

(4) The powers conferred by this section shall be exercised subject to such general or special orders as may from time to time be issued in this behalf by the High Court.

### CHAPTER III

#### SUPPLEMENTARY PROVISIONS

23. Except as otherwise provided by this Part, any power that may be conferred by the High Court on any person under this Part may be conferred on such person either by name or by virtue of office.

Mode of  
conferring  
powers.

24. Whenever any person holding an office in the service of Government who has been invested with any power under this Part throughout any local area is transferred or posted at any subsequent time to an equal or higher office of the same nature within a like local area, he shall, unless the High Court, otherwise directs or has otherwise directed, exercise the same powers in the local area to which he is so transferred or posted.

Continuance  
of powers of  
officers.

25. The High Court may from time to time make rules consistent with this Act and any other enactment for the time being in force,—

Provisions  
regarding  
petition writers.

- (a) declaring what persons shall be permitted to act as petition-writers in the Courts subordinate thereto;
- (b) regulating the issue of licenses to such persons, the conduct of business by them, and the scale of fees to be charged by them; and
- (c) determining the authority by which breaches of such rules shall be investigated and the penalties which may be imposed.

26. (1) The High Court shall prepare a list of days to be observed in each year as holidays in Civil Courts subordinate thereto.

Control of  
list of holi-  
days.

(2) Every such list shall be published in the Official Gazette.

27. Every Court constituted under this Act shall use a seal of such form and design as are or may be prescribed by the High Court.

Seal.

28. In the event of absence of the District Judge or in the event of a vacancy in that office for whatever reason, the Additional District Judge or if there are more than one Additional District Judges present, the first in rank among them and in case there be no Additional District Judge present, the first in rank among the Subordinate Judges present, shall in addition to his own duties, discharge the functions of the District Judge with respect to the filing of the suits and appeals, receiving pleadings, miscellaneous applications and the like, as also with respect to the distribution thereof.

Temporary  
vacancies of  
office of  
District  
Judge.

29. (1) The High Court may from time to time make rules consistent with this Act and any other law for the time being in force for the purpose of carrying into effect the provisions of this Act.

Power to  
make rules.

(2) In particular and without prejudice to the generality of the powers conferred by sub-section (1) such rules may provide for all or any of the following matters:—

- (a) for the supervision of all Courts subordinate to the High Court and their visitation and inspection;
- (b) for the translation of any paper in the High Court and the preparation of paper books for the hearing of appeals and the copying or printing of any such papers or translations and the recovery from the persons a whose instance or on whose behalf papers are filed, of the expenses thereby incurred;
- (c) the fees to be charged for processes issued by the Civil Courts, or by any officer of any such Court and the fee payable in any suit or proceeding in any such Court by any party to such suit or proceeding in respect of the fees of the pleader of any other party to such suit or proceedings;
- (d) the manner in which the proceedings of Civil Court shall be kept and recorded, the manner in which paper books for the hearing of appeals shall be prepared and the granting of copies;
- (e) all matters relating to officers of Court.

Repeal and savings.

30. (1) The Punjab Courts Act, 1918 as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 and the Himachal Pradesh (Courts) Order, 1948 as in force in the areas comprised in Himachal Pradesh immediately before 1st November, 1966 are hereby repealed:

6 of 1918

31 of 1966

- (a) Provided that anything done or any action taken, courts constituted, notifications issued, rules made, powers conferred, delegations and appointments made under the said Act or the said Order shall be deemed to have been done, taken, constituted, issued and conferred under the corresponding provision of this Act;
- (b) Provided further that in every enactment now in force and in every appointment order, order, rule, bye-law, notification or form made or issued thereunder, all references to the said Act or the said Order shall be construed as referring to this Act.

(2) For the removal of doubts, it is hereby declared that all suits, appeals, revisions, applications, reviews, executions and other proceedings whatsoever pending in any of the Courts established under the Act, or the Order repealed under sub-section (1) shall be continued and concluded in the same Court as if the said Court had been duly established under this Act.

## STATEMENT OF OBJECTS AND REASONS

At present there are two different laws relating to Courts in force in Himachal Pradesh. One is the Himachal Pradesh Courts Order, 1948, which is in force in the old areas of Himachal Pradesh and the other is the Punjab Courts Act, 1918 which is in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966. With a view to bring uniformity in the Courts laws, it has been decided by the Himachal Pradesh Government to enact one law for whole of Himachal Pradesh. This Bill seeks to achieve the aforesaid object.

SIMLA :  
*The 21st March, 1975*

Y. S. PARMAR,  
*Chief Minister.*

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## FINANCIAL MEMORANDUM

Nil

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## MEMORANDUM ON DELEGATED LEGISLATION

Clause 29 of the Bill provides for making rules by the High Court for carrying out the purposes of the Bill. This delegation is normal in character.

